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**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2071

ALLAN H. UNDERHILL, R.C.P.  
6922 River Run Court  
Mira Loma, CA 91752

**A C C U S A T I O N**

Respiratory Care Practitioner License No. 3980

Respondent.

Complainant alleges:

**PARTIES**

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about June 7, 1985, the Respiratory Care Board issued Respiratory Care Practitioner License Number 3980 to ALLAN H. UNDERHILL, R.C.P. (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2007, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 3710 of the Code states, in pertinent part: “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

5. Section 3718 of the Code states: “The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.”

6. Section 3750 of the Code states, in pertinent part:

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

“...

“(f) Negligence in his or her practice as a respiratory care practitioner.

“(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).

“...”

7. Section 3755 of the Code states:

“The board may take action against any respiratory care practitioner who is charged with unprofessional conduct in administering, or attempting to administer, direct or indirect respiratory care. Unprofessional conduct includes, but is not limited to, repeated acts of clearly administering directly or indirectly inappropriate or unsafe respiratory care procedures, protocols, therapeutic regimens, or diagnostic testing or monitoring techniques, and violation of any provision of Section 3750. The board may

1 determine unprofessional conduct involving any and all aspects of respiratory care  
2 performed by anyone licensed as a respiratory care practitioner.”

3 8. California Code of Regulations (CCR), title 16, section 1399.370, states:

4 “For the purposes of denial, suspension, or revocation of a license, a crime or act  
5 shall be considered to be substantially related to the qualifications, functions or duties of  
6 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to  
7 perform the functions authorized by his or her license or in a manner inconsistent with the  
8 public health, safety, or welfare. Such crimes or acts shall include but not be limited to  
9 those involving the following:

10 “(a) Violating or attempting to violate, directly or indirectly, or assisting or  
11 abetting the violation of or conspiring to violate any provision or term of the Act.

12 “...”

### 13 COST RECOVERY

14 9. Section 3753.5, subdivision (a) of the Code states:

15 “In any order issued in resolution of a disciplinary proceeding before the board,  
16 the board or the administrative law judge may direct any practitioner or applicant found to  
17 have committed a violation or violations of law to pay to the board a sum not to exceed  
18 the costs of the investigation and prosecution of the case. A certified copy of the actual  
19 costs, or a good faith estimate of costs where actual costs are not available, signed by the  
20 official custodian of the record or his or her designated representative shall be prima facie  
21 evidence of the actual costs of the investigation and prosecution of the case.”

22 10. Section 3753.7 of the Code provides that for purposes of the Respiratory  
23 Care Practice Act, costs of prosecution shall include attorney general or other prosecuting  
24 attorney fees, expert witness fees, and other administrative, filing, and service fees.

25 11. Section 3753.1 of the Code states:

26 “(a) An administrative disciplinary decision imposing terms of probation may  
27 include, among other things, a requirement that the licensee-probationer pay the monetary  
28 costs associated with monitoring the probation.”

1 FIRST CAUSE FOR DISCIPLINE

2 (Negligence)

3 12. Respondent is subject to disciplinary action under sections 3750,  
4 subdivisions (f) and (g) of the Code, and CCR, title 16, section 1399.370, subdivision (a), in that  
5 Respondent was negligent in his care and treatment of two patients. The circumstances are as  
6 follows:

7 Patient L.S.

8 A. On or about May 13, 2005, Patient L.S., a paraplegic, was a patient  
9 at the RLAN Rehabilitation Center. She had been admitted with severe hyponatremia<sup>1</sup>, sepsis<sup>2</sup>,  
10 and endocarditis<sup>3</sup>. Because of respiratory failure, Patient L.S. was intubated<sup>4</sup> and placed on a  
11 BEAR stationary ventilator<sup>5</sup> at 1:20 p.m.

12 B. Original ventilator orders, written at approximately 1:00 p.m., for  
13 Patient L.S. included a FiO<sub>2</sub><sup>6</sup> setting of at least 60%. At 1:40 p.m. a verbal order was received  
14 from the patient.'s physician to increase the FiO<sub>2</sub> to 100%.

15 C. On or about May 13, 2005, Respondent worked the day shift at the  
16 RLAN Rehabilitation Center. At approximately 2:20 p.m., Respondent was asked to relieve  
17 another therapist for lunch and transfer Patient L.S. from the Intensive Care Unit (ICU) to the  
18 Nuclear Medicine Department for a stat VQ Scan<sup>7</sup>. Respondent changed Patient L.S. from the  
19

20 1. Decreased concentration of sodium in the blood.

21 2. Commonly called a "blood stream infection." The presence of bacteria or other  
22 infectious organisms or their toxins in the blood or in other tissue of the body.

23 3. Inflammation of the lining membrane of the heart.

24 4. Insertion of a tube into the trachea for the purpose of maintaining the airway.

25 5. A breathing machine that provides the force needed to deliver air to the lungs in a  
26 patient whose own ventilatory abilities are diminished or lost.

27 6. Fraction of Inspired Oxygen. The concentration of oxygen in the inspired air.

28 7. A lung VQ Scan is a nuclear medicine test that produces a picture of lung ventilation  
and blood flow to the lungs.

BEAR stationary ventilator to a LS-20 portable ventilator that did not have the capacity to administer the original ventilator orders of 60% oxygen.

D. Shortly after changing Patient L.S. over to the portable ventilator, Respondent and D.V., a registered nurse, transferred Patient L.S. to the Nuclear Medicine Department. Shortly after arriving in Nuclear Medicine, Patient L.S. experienced an abnormal heart rate and went into cardiac arrest. A Code Blue<sup>8</sup> was called and Respondent continued to use the ambu bag<sup>9</sup> on the patient until the Code Blue team arrived.

E. Respondent failed to ensure that a proper oxygen concentration was available to Patient L.S. during the transfer to the Nuclear Medicine Department when he used the LS-20 ventilator which did not have the capacity to administer the ordered amount of oxygen.

F. Respondent failed to document significant information regarding his involvement with Patient L.S. He failed to document the transfer of the patient, his involvement in the Code Blue, and the verbal orders he claimed to have received from the physician to use the LS-20 portable ventilator.

#### Patient A.G.

A. On or about May 24, 2005, Respondent was assigned to Patient A.G., a spinal-cord-injury patient, in the ICU at the RLAN Rehabilitation Center. Because of her respiratory condition, Patient A.G. was on a BEAR stationary ventilator connected to her tracheostomy<sup>10</sup> tube.

B. Original ventilator orders for Patient A.G. included a FiO<sub>2</sub> of 35% and oxygen via the tracheostomy tube in order to keep the oxygen saturation level above 94%.

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8. A medical emergency in which a team of medical personnel work to revive an individual in cardiac arrest.

9. An ambu bag is a proprietary brand of a self-inflating bag-valve-mask resuscitator, used to provide artificial ventilation to people who are having difficulty breathing or have stopped breathing altogether.

10. Opening over the trachea to permit an airway.

1 C. At approximately 2:30 p.m., Respondent was instructed to transfer  
2 Patient A.G. from the ICU to 3 South (3S). After Respondent placed Patient A.G. on the LP-20  
3 portable ventilator, in preparation for the transfer, he proceeded to the JPI Building and moved a  
4 BEAR stationary ventilator to 3S.

5 D. At approximately 2:30 p.m., Respondent and S.B, a registered  
6 nurse, transferred Patient A.G. to 3S and connected the patient to the BEAR stationary ventilator.

7 E. At approximately 4:48 p.m., an order was written to place Patient  
8 A.G. on a LP-20 portable ventilator using same previous settings.

9 F. Respondent failed to document the transfer of Patient A.G. to 3S  
10 and the ventilator system check after transferring the patient.

11 SECOND CAUSE FOR DISCIPLINE

12 (Unprofessional Conduct)

13 13. Respondent has further subjected his Respiratory Care Practitioner  
14 License No. 3980 to disciplinary action under section 3755 of the Code in that Respondent  
15 engaged in unprofessional conduct as more particularly described in paragraph 12, above, which  
16 is incorporated by reference as if fully set forth herein.

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
19 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

20 1. Revoking or suspending Respiratory Care Practitioner License  
21 Number 3980 heretofore issued by the Board to ALLAN H. UNDERHILL, R.C.P.

22 2. Ordering ALLAN H. UNDERHILL, R.C.P. to pay the Respiratory Care  
23 Board the costs of the investigation and enforcement of this case, and if placed on probation, the  
24 costs of probation monitoring;

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3. Taking such other and further action as deemed necessary and proper.

DATED: April 18, 2007

Original signed by: \_\_\_\_\_  
STEPHANIE NUNEZ  
Executive Officer  
Respiratory Care Board of California  
Department of Consumer Affairs  
State of California  
Complainant